

AMENDED IN SENATE AUGUST 11, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1798

**Introduced by Assembly Member Evans Members Evans, Chesbro,
and Huffman**

(Principal coauthors: Senators Leno and Wiggins)

*(Coauthors: Assembly Members Anderson, Bill Berryhill,
Tom Berryhill, Coto, Huber, Ruskin, Saldaña, and Smyth)*

(Coauthors: Senators Harman, Padilla, and Wright)

February 10, 2010

An act to amend ~~Sections 23086 and 25503.15 of~~ *Section 23086 of,*
and to add Section 25246 to, the Business and Professions Code, relating
to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1798, as amended, Evans. Alcoholic beverages: ~~Alcoholic
Beverage Control Appeals Board: tied-house restrictions: wine labels:~~
Sonoma County.

(1) Existing law requires the Alcoholic Beverage Control Appeals Board to issue an order within 60 days after an appeal is filed.

This bill would require the board to issue an order within 75 days after an appeal is filed.

(2) ~~Existing provisions of the Alcoholic Beverage Control Act, known as “tied-house” restrictions, generally prohibit a winegrower from having an ownership interest in an on-sale alcoholic beverage license, with limited exceptions. Among other exemptions, existing law exempts from the tied-house restrictions any licensed winegrower who meets~~

~~specified conditions, including that the winegrower, or his or her officer, director, or agent, enters into an undertaking, approved by the Department of Alcoholic Beverage Control, that makes specified statements regarding the sale or furnishing of wine by the winegrower, or any officer, director, or agent of the winegrower.~~

~~This bill would retain the requirement that the winegrower, or the officer, director, or agent of the winegrower meet the specified conditions regarding the sale or furnishing of wine under the circumstances described above, but would eliminate the requirement that statements describing these conditions be made pursuant to an undertaking approved by the department.~~

(2) The Alcoholic Beverage Control Act provides for specified labeling requirements for containers of alcoholic beverages sold within this state.

This bill would require any wine bottled on or after January 1, 2014, labeled with an American Viticultural Area established pursuant to federal law that is located entirely within a county of the 19th class, to bear the designation "Sonoma County" on the label in specified type size as determined by the size of the wine container, as prescribed. The bill would authorize the Department of Alcoholic Beverage Control to suspend or revoke the license of any person who violates those provisions.

The Alcoholic Beverage Control Act provides that a violation of its provisions is a misdemeanor, unless otherwise specified.

This bill, by creating a new crime, imposes a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 23086 of the Business and Professions
- 2 Code is amended to read:

1 23086. In all cases, the board shall enter its order within 75
2 days after the filing of an appeal.

3 ~~SEC. 2. Section 25503.15 of the Business and Professions~~
4 ~~Code is amended to read:~~

5 ~~25503.15. (a) Notwithstanding any other provision of this~~
6 ~~division, a winegrower who manufactures, produces, bottles,~~
7 ~~processes, imports, or sells wine only, or any officer, director, or~~
8 ~~agent of that person, may hold the ownership of any interest in~~
9 ~~any on-sale license, if both of the following conditions are met:~~

10 ~~(1) Neither that person nor any officer, director, or agent of that~~
11 ~~person sells or furnishes to the holder of the license any wine, or~~
12 ~~permits the sale pursuant to that license of any wine, manufactured,~~
13 ~~produced, wholesaled, bottled, processed, imported, or sold by~~
14 ~~that person or that person's principal for as long as that ownership~~
15 ~~continues.~~

16 ~~(2) Neither that person nor any officer, director, or agent of that~~
17 ~~person enters into any collusive scheme whereby he or she unfairly~~
18 ~~sells or promotes, in his or her on-sale businesses, the wine of~~
19 ~~another winegrower who manufactures, produces, bottles,~~
20 ~~processes, imports, or sells wine only, in return for his or her wine~~
21 ~~being unfairly sold or promoted in the on-sale businesses of that~~
22 ~~winegrower.~~

23 ~~(b) Notwithstanding any other provision of this division, any~~
24 ~~licensed winegrower or any winegrower who has a wholesale~~
25 ~~license, or any officer, director, or agent of that person, may hold,~~
26 ~~directly or indirectly, the ownership of any interest in an on-sale~~
27 ~~license, provided that each of the following conditions is met:~~

28 ~~(1) The on-sale licensed premises are licensed as a bona fide~~
29 ~~public eating place as defined in Section 23038, or as a bona fide~~
30 ~~bed and breakfast inn as defined in Section 24045.11.~~

31 ~~(2) The on-sale licensed premises purchases all alcoholic~~
32 ~~beverages sold and served at the on-sale licensed premises only~~
33 ~~from California wholesale licensees, other than the licensed~~
34 ~~winegrower who has a wholesale license and an interest in an~~
35 ~~on-sale license, unless one of the following conditions is met:~~

36 ~~(A) The wine purchased is produced or bottled by, or produced~~
37 ~~and packaged for, the same licensed winegrower that holds an~~
38 ~~interest in the on-sale license.~~

39 ~~(B) The wine is produced or bottled by, and is purchased from,~~
40 ~~a licensed winegrower who sells no more than 125,000 gallons of~~

1 wine per year for distribution in this state under all brands or trade
2 names owned by that winegrower.

3 ~~(C) The wine is purchased by an on-sale licensee in whose~~
4 ~~on-sale license a licensed winegrower holds an interest, provided~~
5 ~~that the winegrower sells no more than 125,000 gallons of wine~~
6 ~~per year for distribution in this state under all brands or trade names~~
7 ~~owned by that winegrower.~~

8 ~~(3) The licensed winegrower and any officer, director, or agent~~
9 ~~of that person, whether individually or in the aggregate, do not sell~~
10 ~~and serve the wine products produced or bottled under any brand~~
11 ~~or trade name owned by that winegrower through more than two~~
12 ~~on-sale licensed premises in which any of them holds an ownership~~
13 ~~interest.~~

14 ~~(4) The number of wine items by brand offered for sale by the~~
15 ~~on-sale licensed premises that are produced, bottled, processed,~~
16 ~~imported, or sold by the licensed winegrower or by any person~~
17 ~~holding any interest in the winegrower does not exceed 15 percent~~
18 ~~of the total wine items by brand listed and offered for sale in the~~
19 ~~licensed bona fide public eating place selling and serving that wine.~~
20 ~~This paragraph does not apply to a bona fide bed and breakfast~~
21 ~~inn.~~

22 ~~(e) The Legislature finds that it is necessary and proper to~~
23 ~~require a separation between manufacturing interests, wholesale~~
24 ~~interests, and retail interests in the production and distribution of~~
25 ~~alcoholic beverages in order to prevent suppliers from dominating~~
26 ~~local markets through vertical integration and to prevent excessive~~
27 ~~sales of alcoholic beverages produced by overly aggressive~~
28 ~~marketing techniques. The Legislature further finds that the~~
29 ~~exceptions established by this section to the general prohibition~~
30 ~~against tied interests must be limited to their express terms so as~~
31 ~~not to undermine the general prohibition, and intends that this~~
32 ~~section be construed accordingly.~~

33 *SEC. 2. Section 25246 is added to the Business and Professions*
34 *Code, to read:*

35 *25246. (a) Any wine labeled with an American Viticultural*
36 *Area established pursuant to Part 9 (commencing with Section*
37 *9.1) of Title 27 of the Code of Federal Regulations, that is located*
38 *entirely within a county of the 19th class, shall bear the designation*
39 *“Sonoma County” on the label in a type size not smaller than two*

1 millimeters on containers of more than 187 milliliters or smaller
2 than one millimeter on containers of 187 milliliters or less.

3 (b) The department may suspend or revoke the license of any
4 person who violates this section.

5 (c) This section shall not apply to any wine labeled with a
6 viticultural area appellation of origin established pursuant to Part
7 9 (commencing with Section 9.1) of Title 27 of the Code of Federal
8 Regulations when the name of the appellation includes the term
9 “Sonoma County.”

10 (d) This section shall apply to wines bottled on or after January
11 1, 2014.

12 SEC. 3. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.